

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

IN RE:)	CHAPTER 7
PAMELA HARPER WELDON, Debtor.)	CASE NO. 10-14740-whd
_____)	
GRIFFIN E. HOWELL, III, Trustee, Movant,)	JUDGE W. H. DRAKE, JR.
vs.)	
SPALDING COUNTY TAX COMMISSIONER, Respondent.)	

**MOTION TO SELL PROPERTY OF THE ESTATE
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

COMES NOW, GRIFFIN E. HOWELL, III, Chapter 7 Trustee of the above referenced Debtor's bankruptcy estate ("Trustee"), and files this "Motion to Sell Property of the Estate Free and Clear of Liens, Claims and Encumbrances," showing the Court as follows:

1.

In accordance with 11 U.S.C. §541(a), the Debtor's bankruptcy estate includes the Debtor's one-third interest in property known as 1618 Williamson Road, Griffin, Georgia. This was obtained by the Trustee as Debtor's share of the inheritance from her father's Probate Estate.

2.

The Trustee has obtained an offer for the sale of the above described property for the total sum of \$50,000.00 from Albert Justin Harper or his assigns. The sale is to be free and clear of all liens, claims and encumbrances. A copy of the Contract is attached hereto marked as Exhibit "A" and incorporated herein by reference.

3.

The following creditors hold a lien on the real property of the estate:

- (a) Potential State, County and City property taxes.

4.

The Trustee believes there are no past due taxes, but is listing the Spalding County Tax Commissioner as Respondent in an abundance of a precaution.

5.

The real property shall be sold free and clear of any interest or lien of the above-named creditor or any interest, claim, lien or encumbrance of any other creditor of the Debtor.

6.

From the proceeds of the sale, the Trustee shall be authorized to pay all normal closing costs ordinarily paid for by Sellers of real property, including a termite letter, and *pro rata* State, County and City property taxes, together with any other past due taxes or assessments regarding this property. The Trustee shall receive one-third of the net sales proceeds.

7.

The sale described herein is in the best interest of the estate and creditors of the estate. Accordingly, Trustee requests that the Court approve the sale.

8.

Trustee shows that the purchaser, Albert Justin Harper, is a nephew of the Debtor. The Trustee has consulted with a realtor regarding the value of the property, and considered the tax value of the property in determining that the sales price is fair and reasonable. This will also save the bankruptcy estate a real estate commission if it was sold through a third party.

9.

Trustee requests permission to execute all documents necessary to effectuate this transaction.

10.

Trustee requests that the stay of Rule 6004(h) be waived, and the Trustee be allowed to immediately proceed with the sale upon entry of an Order.

WHEREFORE, Trustee prays that this Court enter an order approving the sale of the real property for a total purchase price of \$50,000.00 to Albert Justin Harper, or his assigns, free and clear of all liens, claims and encumbrances, from which the Trustee will receive one-third of the net proceeds; that he be authorized to pay any items set out in this Motion; for a waiver of Rule 6004(h) to allow the Trustee to immediately proceed with the sale upon entry of the Order; that he be authorized to execute all documents necessary to effectuate this transaction; and that this Court grant such other and further relief as is just and proper.

Respectfully submitted,

NEWTON & HOWELL, P.C.

/s/ Griffin E. Howell, III

Griffin E. Howell, III

Attorney for Trustee

GA BAR NO. 372225

127 ½ E. Solomon Street
P.O. Box 551
Griffin, GA 30224
Ph: (770) 227-0110
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newhow@bellsouth.net

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_____)	
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Movant,)	
vs.)	
SPALDING COUNTY TAX COMMISSIONER,)	
Respondent.)	

**NOTICE REGARDING SALE OF REAL PROPERTY
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

GRIFFIN E. HOWELL, III, is the Chapter 7 Trustee for the above-styled Debtor's bankruptcy estate. Included in the property of Debtor's bankruptcy estate is certain real property known as: 1618 Williamson Road, Griffin, Spalding County, Georgia, which the Trustee acquired from an inheritance of the Debtor's father. Trustee proposes to sell the real estate for a total sales price of no less than \$50,000.00. The sale shall be free and clear of all liens, claims and encumbrances. The Bankruptcy Estate owns one-third of the property and shall receive one-third of the net proceeds.

The following creditors hold a lien on the real property of the estate:

- (a) Potential State, County and City property taxes.

The sale contemplated herein shall be free and clear of any interest or lien of the above-named creditor or any interest, claim, lien or encumbrance of any other creditor of the Debtor. The liens shall attach to the proceeds of the sale until such time as the validity of the liens is determined by this Court.

From the proceeds of sale, the Trustee shall be authorized to pay all normal closing costs ordinarily paid for by Sellers of real property, including a termite letter, *pro rata* State, County and City taxes, together with any other past due taxes or assessments regarding this property.

NOTICE IS HEREBY GIVEN that parties desiring to object to the proposed sale of the real property free and clear of liens, claims and encumbrances shall file such objections with the Clerk of the Bankruptcy Court, 18 Greenville Street, P.O. Box 2328, Newnan, Georgia, 30264, within twenty (20) days of the date of mailing shown below, and shall serve a copy of such objection on the Chapter 7 Trustee, Griffin E. Howell, III, Newton & Howell, P.C., P.O. Box 551, Griffin, GA, 30224.

IT IS FURTHER ORDERED AND NOTICE IS FURTHER GIVEN that any creditor or party in interest asserting a lien on the real property or on the proceeds of the sale must timely file an objection as set forth above. Failure to timely file an objection shall constitute a waiver of such objections, and in such event, Trustee shall be authorized to sell the real property without further notice or a hearing.

In the event an objection is timely filed, a hearing thereon will be held in the Second Floor Courtroom, United States Courthouse, 18 Greenville Street, Newnan, Georgia, at **10:10 a.m.**, on the **11th** day of **April 2014**.

Trustee shall serve a copy of this Order and Notice on all creditors and parties in interest and shall certify such service to the Court within three (3) days thereafter.

Respectfully submitted,

NEWTON & HOWELL, P.C.

/s/ Griffin E. Howell, III
Griffin E. Howell, III
Attorney for Trustee
GA BAR NO. 372225

127 ½ E. Solomon Street
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vs.)	
SPALDING COUNTY TAX COMMISSIONER,)	
Respondent.)	

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing *MOTION TO SELL
PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS, CLAIMS AND
ENCUMBRANCES* and *NOTICE REGARDING SALE*, upon the following:

Pamela Harper Weldon
P.O. Box 246
Concord, GA 30206

Ashley B. Brannen, Esq.
Brannen Law Group, PC
7147 Jonesboro Road, Suite G
Morrow, GA 30260

Joseph Chad Brannen, Esq.
Brannen Law Group, PC
7147 Jonesboro Road, Suite G
Morrow, GA 30260

Office of the United States Trustee
362 Richard Russell Building
75 Spring Street, SW
Atlanta, GA 30303

Sylvia W. Hollums
Spalding County Tax Commissioner
P.O. Box 509
Griffin, GA 30224

ALL CREDITORS AND PARTIES OF
INTEREST LISTED ON ATTACHED
MATRIX

by placing the same in the U.S. Mail in a properly addressed envelope with adequate postage thereon to insure delivery.

This 5 day of March 2014.

Respectfully submitted,

NEWTON & HOWELL, P.C.

/s/ Griffin E. Howell, III

Griffin E. Howell, III

Attorney for Trustee

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